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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Adam T. Lee, et al.)	Attorney Docket No. KOCH.56145
Serial No. 08/811,434)	Examiner: Bushey, C.
Filed: March 3, 1997)	Art Unit: 1724
DOWNCOMER FOR CHEMICAL)	
PROCESS TOWER)	

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DECLARATION OF MICHAEL J. BINKLEY

I, Michael J. Binkley, hereby declare as follows:

1. From 1969 to June of 1997, I worked for Glitsch, Inc., at its facilities in Dallas, Texas. Since June of 1997, I have worked for Koch-Glitsch, Inc. as a result of its purchase of certain assets of Glitsch, Inc.

2. I have read the present application and its priority application Serial No. 08/742,819. As a result of my involvement in the development of trays while employed by Glitsch, Inc., I am familiar with the development of the inventions described in these applications.

3. I have reviewed a job file relating to the sale of certain high capacity trays by Glitsch, Inc. to a customer in Korea, SsangYong Oil Refining Co., Ltd., in order to determine whether the apparatus claimed in the present application was sold or otherwise disclosed to that customer and, if so, when the apparatus was first placed on sale or disclosed to that customer.

4. Upon review of the job file, I was able to determine that the apparatus was sold to the customer, but the correspondence that ultimately resulted in the sale was initiated by an inquiry from the customer to Glitsch, Inc., dated less than one year prior to the October 30, 1996

filing date of priority U.S. Application Serial No. 08/742,819. As a result, the claimed apparatus was not placed on sale more than one year prior to the filing date of the priority application. Attached hereto as Exhibit A is a copy of that initial inquiry with the date blacked out and the two attachments removed.

5. Also as a result of my review of the job file, and my familiarity with the practices and procedures of Glitsch, Inc., I was able to determine that the "pinch point" feature of the claimed apparatus was not disclosed to the customer until several months after the initial inquiry. Attached hereto as Exhibit B is a copy of a letter from the customer, dated several months after the initial inquiry, stating that the customer did not have any information on the high capacity tray and requesting that general and technical data for the tray be forwarded to the customer. Also attached hereto as Exhibit C is a subsequent communication from Glitsch, Inc. to the customer releasing the drawings of the trays for approval. The dates on Exhibits B and C have been blacked out.

6. I was also asked to supervise the construction of a model of the claimed apparatus for use in illustrating the invention during an interview with the Examiner on October 15, 1998. Following the interview, I was then asked to take photographs from selected angles of the model.

7. Two of the photographs that I took are attached hereto in Exhibit D and are labeled Photographs 1 and 2. Photograph 1 is a perspective view of the model from an angle similar to the perspective view in Fig. 2 in U.S. Patent Application No. 08/742,819, and Photograph 2 is a top plan view of the model. In order to better illustrate the inner radius of the pinch point at the center of the downcomer outlet and the inner radius of the opposing end portions of the downcomer outlet, red and blue rings were placed on the upper surface of the transparent tray in the model. (The

red ring appears to have a thickness corresponding to the thickness of the tray, but this is caused by the refractive properties of the transparent tray.) The red ring has an inner radius corresponding to the inner radius of the center pinch point, and the blue ring has an inner radius generally corresponding to the inner radius of the opposing end portions.

8. As can be clearly seen in Photographs 1 and 2, the lower edge of the wall region that forms the inner wall of downcomer outlet is closer to the wall of the process tower at the center than at the opposing end portions so that more liquid will flow through the opposing end portions of the downcomer outlet than through the center of the downcomer outlet.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

23 Nov 1998
(Date)

Michael J. Binkley
Michael J. Binkley